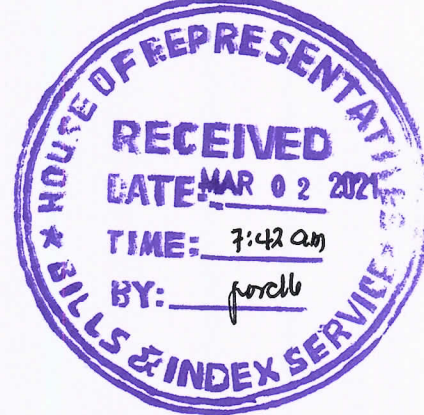


Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 8837



Introduced by: **REP. PROSPERO A. PICHAY, JR.**

EXPLANATORY NOTE

Mineral exploration, together with mineral prospecting is an essential and indispensable part of any mining activity. Primarily because the extraction of minerals and ores has to start with the search as to where to find them. It will be followed by the measurement of their tonnages and grades among other perimeters, and then the determination of the feasibility of mining them commercially. All of these basic works are part of the exploration stage of mining.

It is noteworthy that mining has five (5) major stages:

1. Prospecting
2. Exploration
3. Development
4. Utilization
5. Rehabilitation

Clearly then, exploration is key to the progression of a mining project from development to the eventual utilization or commercial operation stages. Inversely, a frustrating exploration stage will be an enormous hurdle to the opening of prospective mining projects.

It has long been written that the Philippines is greatly endowed with mineral resources. Unquestionably, these are resources that could catapult the country to greater heights of economic recovery if utilized properly.

But why is it that the contribution of the local mining industry to the economy remains to be at the bottom of the heap? A contribution of 0.6% to 0.7% to the Gross Domestic Product (GDP) is not really something to be proud of.

There are many reasons, but one notable is the Exploration Permit (EP) requirements.

Republic Act No. 7942, otherwise known as the Philippine Mining Act of 1995, provides that one may first secure an EP in order to conduct mineral exploration and should it be successful, the EP holder or permittee may proceed to file a mining application. The Implementing Rules and Regulations (IRR) of the Philippine Mining Act of 1995 highlighted it by requiring mining applicants to pass thru the EP first prior to filing their mining applications.

As a result, the overall process of opening a mining project became a long and tedious process.

This Bill intends to address the issue by completely removing the EP from the provisions of the Philippine Mining Act of 1995 and in lieu thereof, allow the conduct of mineral explorations as soon as the mining application is accepted and registered by the government agency concerned. Thus, by the time that the mining exploration is

approved, the then mining applicant and now mining contractor would already be in the position to start mine development. This would be a big boost to the industry.

Further, it is unquestionable that the expeditious approval of a mining application is also essential to the success of a mining project. Thus, this Bill is also shortening the process flow in the grant of a Mineral Agreement by giving the authority to approve the said agreement to the Mines and Geosciences Bureau Director instead of the Department of Environment and Natural Resources Secretary.

Measures to protect the communities and the environment are not affected in any way by this Bill. It is purely technical in nature, with the intention of speeding up the process and thereby produce more responsible mining projects that can improve the quality of life of our people.

Immediate approval of this measure is earnestly sought.


PROSPERO A. PICHAY, JR.

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HOUSE BILL NO. 8837

Introduced by: REP. PROSPERO A. PICHAY, JR.

AN ACT
AMENDING REPUBLIC ACT 7942, OTHERWISE KNOWN AS THE "PHILIPPINE MINING ACT OF 1995", BY STREAMLINING THE PROCEDURES IN THE CONDUCT OF MINERAL EXPLORATION AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Section 3(al) of Republic Act 7942 is hereby deleted and the succeeding sections redenominated accordingly.

SECTION 2. Section 3(aq) of Republic Act 7942 is hereby amended to read as follows:

"(aq). Qualified person means any citizen of the Philippines with capacity to contract, or a corporation, partnership, association, or cooperative organized and authorized for the purpose of engaging in mining, with technical and financial capability to undertake mineral resources development and duly registered in accordance with law at least sixty per centum (60%) of the capital of which is owned by citizens of the Philippines: Provided, That a legally organized foreign-owned corporation shall be deemed a qualified person for purposes of granting an exploration permit, a financial or technical assistance agreement or mineral processing permit."

SECTION 3. Section 8 of Republic Act 7942 is hereby amended to read as follows:

"Section 8. Authority of the Department – The Department shall be the primary agency responsible for the conservation, management, development, and proper use of the State's mineral resources, including those in reservations, watershed areas, and lands of the public domain. The Secretary shall have the authority to enter into mineral agreement on behalf of the Government upon the recommendation of the Director, promulgate such rules and regulations as may be necessary to implement the intent and provisions of this Act.

SECTION 4. Section 9 of Republic Act 7942 is hereby amended to read as follows:

"Section 9. Authority of the Bureau – The Bureau shall have direct charge in the administration and disposition of mineral lands and mineral resources and shall undertake geological, mining, metallurgical, chemical, and other researches as well as geological and mineral exploration surveys. The Director shall **HAVE THE AUTHORITY TO ENTER INTO** recommend to the Secretary the granting of mineral agreements **ON BEHALF OF THE GOVERNMENT** to duly qualified persons and shall monitor the compliance by the contractor of the terms and conditions of the mineral agreements. The Bureau may confiscate surety, performance and guaranty bonds posted through an order to be promulgated by the Director. The Director may deputize, when necessary, any member or unit of the Philippine National Police, barangay, duly registered non-governmental organizations (NGO) or any qualified person to police all mining activities."

SECTION 5. Chapter IV of Republic Act 7942 is hereby amended to read as follows:

"CHAPTER IV MINERAL EXPLORATION PERMIT"

SECTION 6. Section 20 of Republic Act 7942 is hereby amended to read as follows:

"Section 20. MINERAL Exploration Permit-~~THE ACCEPTANCE OF A MINING APPLICATION AS PROVIDED IN SECTION 29 HEREOF AND ITS REGISTRATION SHALL~~ An exploration permit grant **TO THE MINING APPLICANT the right to conduct exploration for all minerals in specified areas. ~~The Bureau shall have the authority to grant an exploration permit to a qualified person.~~"**

SECTION 7. Section 21 of Republic Act 7942 is hereby amended to read as follows:

"Section 21. Terms and Conditions of the MINERAL Exploration Permit – ~~THE CONDUCT OF MINERAL~~ An exploration permit shall be for a period of two (2) years, subject to annual review and relinquishment or renewal upon **BY the recommendation of the Director."**

SECTION 8. Section 22 of Republic Act 7942 is hereby amended to read as follows:

"Section 22. Maximum Area for MINERAL Exploration Permit. The maximum area that a ~~qualified person~~ **MINING APPLICANT may hold at any one time shall be **NOT EXCEED THE AREA OF THE MINING APPLICATION.**"**

a. ~~Onshore, in any one province~~

- 1. ~~For Individuals, twenty (20) blocks, and~~**
- 2. ~~For partnerships, corporations, cooperatives, or associations, two hundred (200) blocks.~~**

b. ~~Onshore, in the entire Philippines~~

- 1. ~~For Individuals, forty (40) blocks, and~~**
- 2. ~~For partnerships, corporations, cooperatives, or associations, four hundred (400) blocks.~~**

c. ~~Offshore, beyond five hundred meters (500m) from the mean low tide level~~

- 1. ~~For Individuals, one hundred (100) blocks, and~~**
- 2. ~~For partnerships, corporations, cooperatives, or associations, one thousand (1000) blocks."~~**

SECTION 9. Section 23 of Republic Act 7942 is hereby amended to read as follows:

"Section 23. Rights and Obligations of the MINERAL EXPLORER Permittee – An exploration permit-~~THE ACCEPTANCE AND REGISTRATION OF A MINING APPLICATION~~ shall grant to the **MINING APPLICANT permittee, his heirs or successors-in-interest, the right to enter, occupy and explore the area: Provided, That if private or other parties are affected, the **MINING APPLICANT**-permittee shall first discuss with the said parties the extent, necessity, and name of his entry, occupation and exploration and in case of disagreement, a panel of arbitrators shall resolve the conflict or disagreement."**

The **MINING APPLICANT** permittee shall undertake an exploration work on the area ~~as specified by its permit based on a n approved work program.~~

Any expenditure in excess of the yearly budget of the approved work program may be carried forward and credited to the succeeding years covering the duration of the permit **THEREOF**. ~~The Secretary, through the Director, shall promulgate rules and regulations governing the terms and conditions of the permit.~~

~~The permittee may apply for a mineral production sharing agreement, joint venture agreement, co-production agreement or financial or technical assistance agreement over the permit area, which application shall be granted if the permittee meets the necessary qualifications and the terms and conditions of any such agreement:~~ **UPON THE APPROVAL OF THE MINING APPLICATION, Provided, That the exploration period covered by the MINERAL exploration works permit IN THE APPLIED AREA shall be included as part of the exploration period of the mineral agreement or financial or technical assistance agreement,"**

SECTION 10. Section 24 of Republic Act 7942 is hereby amended to read as follows:

"Section 24. Declaration of Mining Project Feasibility. – A **MINING APPLICANT** ~~holder of an exploration permit~~ who determines the commercial viability of a project covering a mining area may **SHALL**, ~~within the term of the permit,~~ file with the Bureau a declaration of mining project feasibility accompanied by a work program for development. The approval of the mining project feasibility and compliance with other requirements provided in this Act shall entitle the **MINING APPLICANT** ~~holder~~ to **IMMEDIATELY PROCEED TO DEVELOPMENT AND SUBSEQUENT UTILIZATION WORKS UPON GRANT OF THE** ~~an exclusive right to a~~ mineral production sharing agreement or other mineral agreements or financial or technical assistance agreement.'

SECTION 11. Section 25 of Republic Act 7942 is hereby amended to read as follows:

"Section 25. Transfer of Assignment. – **THE RIGHT OF THE MINING APPLICANT TO CONDUCT MINERAL** ~~An exploration permit~~ may be transferred or assigned to a qualified person **AS A CONSEQUENCE OF THE TRANSFER OR ASSIGNMENT OF THE MINING APPLICATION TO THE SAME QUALIFIED PERSON** subject to the approval of ~~the Secretary upon the recommendation of the Director.~~"

SECTION 12. Section 26 of Republic Act 7942 is hereby amended to read as follows:

"Section 26. Modes of Mineral Agreement. – For purposes of mining operations, a mineral agreement may take the following forms as herein defined:

xxx

A mineral agreement shall grant to the contractor the exclusive right to conduct mining operations and to extract all mineral resources found in the contract area. In addition, the contractor may be allowed to convert his agreement into any of the modes of mineral agreements or financial or technical assistance agreement covering the remaining period of the original agreement subject to the approval of the **DIRECTOR IN THE CASE OF MINERAL AGREEMENT OR** of the Secretary **IN CASE OF A FINANCIAL OR TECHNICAL ASSISTANCE AGREEMENT."**

SECTION 13. Section 29 of Republic Act 7942 is hereby amended to read as follows:

"Section 29. Filing and Approval of Mineral Agreements. – All proposed mineral agreements shall be filed in the region where the areas of interest are located, except in mineral reservations which shall be filed with the Bureau.

The filing of a proposal for mineral agreement shall give the proponent the prior right to areas covered by the same. The proposed mineral agreement will be approved by the ~~Secretary~~ **DIRECTOR** and copies thereof shall be submitted to the **SECRETARY AND THE President**. Thereafter, the President shall provide a list to Congress of every approved mineral agreement within thirty (30) days from its approval by the ~~Secretary~~ **DIRECTOR.**"

SECTION 14. Section 30 of Republic Act 7942 is hereby amended to read as follows:

"Section 30. Assignment/Transfer. – Any assignment or transfer of rights and obligations under any mineral agreement except a financial or technical assistance agreement shall be subject to the prior approval of the ~~Secretary~~ **DIRECTOR** within thirty (30) working days from official receipt thereof, unless patently unconstitutional or illegal."

SECTION 15. Section 31 of Republic Act 7942 is hereby amended to read as follows:

"Section 31. Withdrawal from Mineral Agreements. – The contractor may, by giving due notice at any time during the term of the agreement, apply for the cancellation of the mineral agreement due to causes which, in the opinion of the contractor, make continued mining operations no longer feasible or viable. The ~~Secretary~~ **DIRECTOR** shall consider the notice and issue its decision within a period of thirty (30) days: Provided, That the contractor has met all its financial, fiscal and legal obligations."

SECTION 16. Repealing Clause. – All laws, decrees, executive orders, proclamations, rules and regulations, and issuances or parts thereof which are inconsistent with the provisions of this Act, are hereby repealed, amended or modified accordingly.

SECTION 17. Separability Clause. – If any provision of this Act is held invalid or unconstitutional, the other provisions not affected thereby shall remain in full force and effect.

SECTION 18. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation in the Philippines.

Approved,